

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Liam Patrick Ryan d/b/a	)	File No. EB-07-SE-113
L. P. Ryan / Low Power Radio	)	NAL/Acct. No. 200832100006
St. Louis, Missouri	)	FRN # 0017105370

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: November 9, 2007****Released: November 13, 2007**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Liam Patrick Ryan d/b/a L. P. Ryan / Low Power Radio (“Low Power Radio”) apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000) for willful and repeated violation of Section 302(b) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> and Section 2.803(a)(1) of the Commission’s Rules (“Rules”).<sup>2</sup> The noted apparent violations involve marketing of uncertified AM radio transmitters.

**II. BACKGROUND**

2. On May 30, 2007, the Spectrum Enforcement Division of the Enforcement Bureau issued a Letter of Inquiry (“LOI”) to Low Power Radio in response to information that Low Power Radio was marketing in the United States fully-assembled AM transmitters; specifically, the SSTRAN model AMT3000 AM (“AMT3000”) transmitter.<sup>3</sup> In Low Power Radio’s LOI response filed with the Commission,<sup>4</sup> Mr. Ryan indicates that he was not aware of any certification authorizing a fully assembled AMT3000 transmitter. Mr. Ryan claims that he does not “market, offer, or sell complete and assembled SSTRAN AMT3000 transmitters.” Rather, he claims that he “offers an assembly service.” According to Mr. Ryan, “if someone decides to order an AMT3000 kit directly from SSTRAN for me to build, they

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<sup>1</sup> 47 U.S.C. § 302a(b).

<sup>2</sup> 47 C.F.R. § 2.803(a)(1).

<sup>3</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to L. P. Ryan, Low Power Radio (May 30, 2007).

<sup>4</sup> Letter from Liam Patrick Ryan d/b/a L. P. Ryan / Low Power Radio to Jacqueline Johnson, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (received July 2, 2007).

can do so, or, at their request I can order the AMT3000 kit from SSTRAN and build it for them.” “Since the SSTRAN AMT3000 is available only as a kit,” Mr. Ryan continues, “I believe that certification is not required, and is FCC compliant.” Mr. Ryan states that he has maintained no documentation but admits that he has sold completed units to Low Power Radio customers.

3. Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides in pertinent part that:

Except as provided elsewhere in this section, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radiofrequency device<sup>5</sup> unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

4. Pursuant to Section 15.201(b) of the Rules,<sup>6</sup> intentional radiators operating under the provisions of Part 15 of the Rules must be certificated by the Commission prior to marketing. We note that “kits,” as defined in Section 15.3(p) of the Rules,<sup>7</sup> generally are not subject to the equipment authorization requirements.<sup>8</sup> By contrast, fully assembled transmitters, such as the AMT3000 transmitters marketed by Low Power Radio, are intentional radiators subject to the certification requirement. Mr. Ryan’s claims that he does not “market, offer, or sell complete and assembled SSTRAN AMT3000 transmitters” and that he merely “offer[s] an assembly service” are belied by the record. Low Power Radio’s website, [www.ontheair3.com](http://www.ontheair3.com), advertises the SSTRAN AMT3000 as follows:

The SSTRAN AMT3000 features a crystal controlled Digital Frequency Synthesizer that allows the user to program *any* frequency within the entire 530 to 1700 kHz Standard AM Broadcast band. Comes complete as shown including AC adapter and antenna. No assembly required! Just plug ’n play. Buy your assembled, tuned and tested AMT3000 from us today!

Moreover, nowhere on the website does Low Power Radio advertise an “assembly service,” indicate that potential customers could purchase the SSTRAN AMT3000 directly from SSTRAN and that Low Power Radio would assemble it for them, or provide a price for an assembly-only service. Low Power Radio may not circumvent the certification requirement for transmitters by characterizing the marketing of the assembled SSTRAN AMT3000 as an “assembly service.” As the assembler of the device, Mr. Ryan was

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<sup>5</sup> 47 C.F.R. § 2.801 defines a radiofrequency device as “any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means.”

<sup>6</sup> 47 C.F.R. § 15.201(b).

<sup>7</sup> The term “kit” is defined in Section 15.3(p) as “[a]ny number of electronic parts, usually provided with a schematic diagram or printed circuit board, which, when assembled in accordance with instructions, results in a device subject to the regulations in this Part, even if additional parts of any type are required to complete assembly.” 47 C.F.R. § 15.3(p).

<sup>8</sup> *But see* 47 C.F.R. §15.25 (specifying equipment authorization requirements for TV interface devices marketed as kits).

responsible for obtaining an equipment certification prior to marketing.<sup>9</sup> Mr. Ryan admits, however, that there is no certification for these devices.<sup>10</sup> Therefore, we find that Low Power Radio apparently willfully<sup>11</sup> and repeatedly<sup>12</sup> violated Section 302(b) of the Act and Section 2.803(a)(1) of the Rules by marketing an intentional radiator prior to obtaining Commission equipment certification.

5. Section 503(b)(1) of the Act and Section 1.80(a)(1) of the Rules authorize the Commission to assess forfeiture for each willful or repeated violation of the Act or of any rule, regulation, or order issued by the Commission under the Act.<sup>13</sup> In determining the appropriate forfeiture amount, Section 503(b)(2)(E) of the Act directs us to consider factors, such as “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>14</sup>

6. Under Section 1.80 of the Rules, the Commission has established a base forfeiture amount of \$7,000 for the marketing of unauthorized equipment. In this case, we note that Low Power Radio marketed one model of an unauthorized intentional radiator. Accordingly, we find that Low Power Radio is apparently liable for a \$7,000 forfeiture.

7. Finally, Mr. Ryan asserts that all of the proceeds from his “assembly service” go directly to supplement his income to purchase medication and medical supplies and that he is disabled and lives on a fixed income. We note that Low Power Radio will have an opportunity to present documentation concerning its ability to pay the proposed forfeiture in response to the NAL.<sup>15</sup>

### III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>16</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>17</sup> Liam Patrick Ryan d/b/a L.P. Ryan / Low Power Radio **IS** hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of seven thousand dollars (\$7,000) for willfully and repeatedly violating Section 302(b) of the Act and Section 2.803(a)(1) of the Rules.

9. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within

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<sup>9</sup> See *Richard Mann d/b/a The Antique Radio Collector*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 4956 (Enf. Bur., Spectrum Enf. Div. 2007), response pending.

<sup>10</sup> Although Mr. Ryan acknowledges that there is no certification for the SSTRAN AMT3000, the website falsely advertises the assembled device as “Part 15 compliant.”

<sup>11</sup> The term “willful,” as used in Section 503(b) of the Act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate the Commission’s Rules. 47 U.S.C. § 312(f)(1).

<sup>12</sup> A violation is “repeated” within the meaning of Section 503(b) of the Act if it occurs more than once or continues for more than one day. 47 U.S.C. § 312(f)(2).

<sup>13</sup> 47 U.S.C. § 503(b)(1); 47 C.F.R. § 1.80(a)(1).

<sup>14</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>15</sup> See *infra* paragraph 12.

<sup>16</sup> 47 U.S.C. § 503(b).

<sup>17</sup> 47 C.F.R. §§ 0.111, 0.311 and 1.80.

thirty days of the release date of this *Notice of Apparent Liability for Forfeiture*, Liam Patrick Ryan d/b/a L.P. Ryan / Low Power Radio **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

11. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Associate Managing Director—Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>18</sup>

14. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by first class mail and certified mail return receipt requested to Liam Patrick Ryan d/b/a L.P. Ryan / Low Power Radio, 3448 Evergreen Lane, St. Louis, Missouri 63125.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

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<sup>18</sup> See 47 C.F.R. § 1.1914.